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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,696	01/22/2004	Yoshifumi Sato	09792909-5777	5250

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EXAMINER

VAN ROY, TOD THOMAS

ART UNIT	PAPER NUMBER
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2828

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/762,696

Applicant(s)

SATO, YOSHIFUMI

Examiner

Tod T. Van Roy

Art Unit

2828

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3 and 4 is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election of claims 1-4 in the reply filed on 02/13/2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Drawings

Figures 8 and 10-13 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities:

Page 5 line 21 states the word "advantages" while it is believed more correct to use the word "disadvantages".

Appropriate correction is required.

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is

Art Unit: 2828

requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

Claim 2 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Stated X / Y relationship in claim 2 is already found in the text of claim 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by van der Poel et al. (US 5574743).

With respect to claims 1-2, van der Poel discloses an AlGaAs based ridge-stripe semiconductor laser element comprising an upper AlGaAs base cladding layer (fig.8 #'s 4' and 4'') and a lower AlGaAs base cladding layer (fig.8 #'s 2' and 2'') placing an active layer in between (fig.8 #3''), wherein each of said upper AlGaAs base cladding layer and said lower AlGaAs base cladding layer further comprises two or more cladding layers including an AlGaAs base first cladding layer close to said active layer (fig.8 #'s

Art Unit: 2828

4'' and 2''), and an AlGaAs base second cladding layer disposed outward on said AlGaAs base first cladding layer relative to said active layer (fig.8 #'s 4' and 2') and having a larger Al compositional ratio and a smaller refractive index than said AlGaAs base first cladding layer (2'' = Al(0.2)GaAs, 2' = Al(0.4)GaAs, 4'' = Al(0.2)GaAs, 4' = Al(0.4)GaAs; the larger aluminum composition gives an inherent reduction in the refractive index of the AlGaAs material).

Allowable Subject Matter

Claims 3-4 allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Claim 3 is believed to be allowable as the stated layers, compositions, and structural features were not found to be taught in the prior art, or to be obvious combinations of the prior art. Prior art such as US 5574743 and USPGPUB 2002/0001325 were found to teach the basics of the structure and material system, but lacked a 3rd cladding layer in the ridge portion and the correct etch stop layer type, as well as a contact layer and etch stop layer, respectively. It was found to be un-obvious to incorporate either the additional cladding layer or etch stop layer/material into these structures due to the compositional limitations stated in the claim. Also, some additional prior art references, US 6151348 and US 6324201, were found to teach near-complete structural features, but were done so in a non-AlGaAs material system. Once again, it

Art Unit: 2828

was thought to be non-obvious to replace the existing material with the stated AlGaAs complete with compositional limitations.

Claim 4 is believed to be allowable as it is directly dependent from allowable claim 3.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 2002/0001325, 6151348, and 6324201, are believed to be relevant for the reasons stated in the "Allowable subject matter" section.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tod T. Van Roy whose telephone number is (571)272-8447. The examiner can normally be reached on M-F.

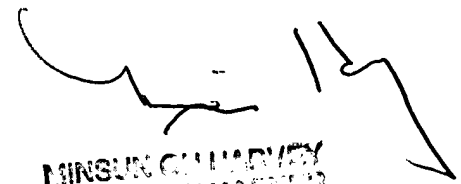
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Minsun Harvey can be reached on (571)272-1835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/762,696
Art Unit: 2828

Page 6

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MINSUN GILHART
PRIMARY INVENTOR